SINGLE BENCH

CF 1001

IN THE HIGH COURT OF JUDICATURE AT BILASPUR

W.P(S). NO. 4858 /2006

PETITIONER : Mohd. Sharif Memon
S/o Shri Taar Mohd.
Aged about 34 years
R/o Village Sohagpur
Via – Champa, Distt. Korba (C.G.)

4882/06 Anoach Pandey 21/9/06
P.[illegible]
Presented [illegible]
dated.....

VERSUS

RESPONDENTS :1) State of Chhattisgarh through the Secretary, Panchayat & Rural Development Department D.K.S. Bhavan, Raipur (C.G.)
2) The Deputy Director Panchayat and Social Welfare, Korba (C.G.)
3) Chief Executive Officer Block Kartala, Distt. Korba (C.G.)
4) Gram Panchayat, Sohagpur through its Sarpanch, Post-Sohagpur, Distt. Korba (C.G.)

अपर आयुक्त एल.के. शुक्ला बिलासपुर तहसील कोर्ट

RECEIVED-COPY 21/9/06 A. G. BILASPUR

WRIT PETITION UNDER ARTICLE 226 / 227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI , MANDAMUS, PROHIBITION AND OTHER SUITABLE WRIT OR WRITS, DIRECTION OR DIRECTIONS, ORDER OR ORDERS :

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HIGH COURT OF CHHATTISGARH AT BILASPUR

SINGLE BENCH : HON'BLE MR. SATISH K. AGNIHOTRI, J.

WRIT PETITION (S.) NO.4858 OF 2006

Petitioner : Mohd. Sharif Memon

versus

Respondents : State of Chhattisgarh and others

Present : Mr. P.S.Koshy with Mr. Vinod Deshmukh, counsel for the petitioner.
Mr. Arvind Dubey, Panel Lawyer for the State/respondents No.1 and 2.
Mr. H.B.Agrawal, Senior Advocate with Mr. J.K.Gupta, counsel for respondent No.4.
None appears for respondent No.3.

ORDER

(Passed on 23rd Day of January, 2007)

The petitioner was initially appointed on the post of Panchayat Karmi vide order dated 28-10-1995 (Annexure P-1). The petitioner was appointed as Panchayat Secretary also under Section 69(1) of the Madhya Pradesh/Chhattisgarh Panchayat Service (Discipline and Appeal) Rules, 1999 (henceforth 'the Rules, 1999') vide order dated 16-1-1997 (Annexure P-3). Subsequently, vide impugned order dated 18-5-2006 (Annexure P-5), the services of the petitioner was removed from the post of Panchayat Karmi/Secretary on the basis of a resolution passed on 17-5-2006. The

petitioner has impugned the order dated 18-5-2006 (Annexure P-5) in this petition.

2. Learned counsel appearing for the parties would jointly submit that the issue under consideration is squarely covered by the order dated 18-8-2006 (Annexure P-6) passed by this Court in ***Thakur Ram Patel*** **vs.** ***State of Chhattisgarh and others*** (Writ Petition (S.) No.4373 of 2006).

3. As per the provisions of Rule 7 of the Rules, 1999, the disciplinary authority is required to frame definite charges on the basis of the allegations and shall communicate such charges, along with the statement of the allegations, to the member of the Panchayat Service and also require him to submit within such time as may be specified, a written statement of defence and also to state whether he desires to be heard in person and after receipt of the written statement of the defence, the disciplinary authority may himself enquire into such charges as are not admitted or appoint an enquiry officer to hold the enquiry and forward to him his report.

4. In the present case, admittedly, notice was issued to appear before the Panchayat, but formal enquiry, as contemplated under Rule 7 of the Rules, 1999, was not done before passing the impugned order dated 18-5-2006 (Annexure P-5) removing the petitioner from the post of Panchayat Karmi/Secretary. Thus, the impugned order is illegal and contrary to the provisions of the Rules, 1999. The same deserves to be quashed.

5. As a result, this petition is allowed and the impugned order dated 18-5-2006 (Annexure P-5) is quashed. However, this order will not come in the way of the respondents to initiate proceedings afresh, if so advised, in accordance with law against the petitioner. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Gopal